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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 ROBERT L. SANFORD,  
12 Plaintiff,

13 v.

14 GAVIN NEWSOM, *et al.*,  
15 Defendants.  
16

Case No. 1:22-cv-01100-ADA-CDB (PC)

FINDINGS AND RECOMMENDATIONS  
TO DISMISS ACTION FOR FAILURE TO  
STATE A CLAIM

(Doc. 19)

**FOURTEEN (14) DAY DEADLINE**

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18 Plaintiff Robert L. Sanford is a state prisoner proceeding *pro se* in this action filed under  
19 the California Tort Claims Act in the Superior Court of California, County of Kern, arising from  
20 his exposure to and contraction of COVID-19 while in custody at California Correctional  
21 Institution. (Doc. 1.) On August 3, 2022, Plaintiff filed a third amended complaint (“TAC”) in  
22 Superior Court alleging Defendants violated his Eighth and Fourteenth Amendment rights under the  
23 United States Constitution and his rights under the California Constitution, Art. I, § 17. (*Id.* at 210–  
24 52, ex. D.) Following Plaintiff’s assertion of claims for federal constitutional violations,  
25 Defendants removed the action to this Court.

26 On April 24, 2023, the Court screened the TAC and found it fails to state a claim upon  
27 which relief may be granted. (Doc. 19.) The order required Plaintiff to file, within thirty days  
28 after the date of service of the order, a fourth amended complaint or, in the alternative, a notice

1 of voluntary dismissal. (*Id.* at 16.) The Court advised: “**If Plaintiff fails to comply with this**  
2 **order, the Court will recommend that this action be dismissed for failure to state a claim.**”  
3 (*Id.*) (alteration in original). Plaintiff failed to respond to the order, and the time to do so has  
4 passed.

5 The Court may only construe Plaintiff’s inaction as his intent to abandoned this action.  
6 Whether he has done so intentionally or mistakenly is inconsequential. Plaintiff bears the  
7 responsibility to comply with the Court’s orders. The Court declines to expend its limited  
8 resources on a case that Plaintiff has chosen to ignore.

9 Accordingly, it is hereby RECOMMENDED:

- 10 1. Plaintiff’s third amended complaint (Doc. 1 at 210 - 52, ex. D) be dismissed with  
11 prejudice for failure to state a claim upon which relief may be granted; and  
12 2. The Clerk of Court be directed to close this case.

13 These findings and recommendations will be submitted to the United States District  
14 Judge assigned to this case pursuant to 28 U.S.C. § 636(b)(1). **Within fourteen (14) days** from  
15 the date of service of these findings and recommendations, Plaintiff may file written objections  
16 with the Court. The document should be captioned, “Objections to Magistrate Judge’s Findings  
17 and Recommendations.” Plaintiff’s failure to file objections within the specified time may result  
18 in waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)  
19 (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

20 IT IS SO ORDERED.

21 Dated: **June 29, 2023**

22   
UNITED STATES MAGISTRATE JUDGE